

REMARKS

Currently claims 1-16, 77 and 78 are pending in the present application. Claims 1, 10, 77 and 78 are independent claims upon which the remaining claims depend at least ultimately. The independent claims are directed to method and system for automatically providing goods and/or services by a service provider to a customer wherein there is provided a data base that allows for the storing of a plurality of images. In addition, there is provided a customer account having associated therewith a criteria for providing at least one good or service with respect to images that have not yet been received or will be received at a later date by the service provider. Thus, the goods and/or services are identified prior to being able to produce the goods or services. Later, when the predetermined criteria is reached, goods or services are automatically provided to a designated recipient with regard to images that have been received or stored on the data base. The present invention allows for a simple and easy method to provide goods or service with respect to images that are received over a period of time or have reached a predetermined criteria. This allows minimal activity on the part of the customer in that all the customer need do is provide the images once having set up the appropriate account and determined the appropriate criteria. For example, in the prior art when a customer submits various images to a photo service provider, the customer receives individual prints or other products associated with the image product. However, as time goes on, the customer is left having a plurality of individual prints or even photo disks as suggested by the Examiner which are not coordinated but are usually scattered about in shoe boxes. The present invention allows a way in which to manage substantially large amounts of images whereby the customer need not do anything. For example, after say 10 rolls of film, or a year has passed (a predetermined criteria), all the images may be automatically provided on a CD to the customer thereby managing and organizing the images in an efficient manner on behalf of the customer. The prior art fails to teach or suggest a system or method to which the present invention is directed.

In response to Applicant's previous response, the Examiner responds that PhotoNet discloses automatically providing a product to a customer accessing the customer provided digital images stored on an online database, a

customer receiving a floppy disk containing a number of digital images. The Examiner states that the predetermined criteria is established by the maximum number of exposures of a roll of film submitted by the customer, however, Applicant respectfully submits that the Examiner has missed the key part of Applicant's invention. The PhotoNet disk to which the Examiner refers to is simply provided after the images have been provided to the service provider. This is nothing more than the user selecting and ordering a product. This is not based on a particular criteria with regard to images that are later received by the service provider as claimed by Applicant. There is no teaching or suggestion in the PhotoNet services of establishing a predetermined criteria or by goods or services provided with regard to images that have yet to be provided to the service provider. Again, one of the important parts of the present invention is to be able to manage and organize images automatically on behalf of a customer. The providing of a floppy disk containing images that have been provided on a roll of film is nothing more than placing an order for any type of goods or services. At the time of placing of the order, the service provider has everything necessary to fulfill the order, whereas in the claimed invention, this is not the case. Further, there is no teaching or suggestion in any of the references cited that the predetermined criteria comprise a time period. What the Examiner refers to with regard to PhotoNet restoring images for up to 100 years or 30 days is merely directed to the time frame in which the images will be maintained on the data base. At the end of the time period, the images will simply be deleted. There is no teaching or suggestion of providing a goods or services upon reaching that criteria. In fact, the prior art teaches the elimination of providing goods and/or services as the images are eliminated. Further, there is no teaching or suggestion of registering unique IDs with respect to film or rolls as set forth in dependent claim 5.

The Examiner has made the statement that since Applicant did not traverse the Examiner's search in the Official Notice, the common knowledge or well known in the art statement is taken to be admitted prior art because Applicant has failed to traverse or adequately traverse the Examiner's assertion Official Notice. In this regard, Applicant respectfully submits that Applicant has not acknowledged the Official Notice as suggested by the Examiner. In this regard, MPEP 2144.03 states that "In limited circumstances, it is appropriate for an

examiner to take official notice of facts not in the record or relying on 'common knowledge' in making a rejection, however, such rejections should be judiciously applied. Judicial notice is made with respect to facts and not to opinions. In this regard the Examiner stated in paragraph 5 of the Official Rejection "This examiner takes the position that it is old and well known that photo albums pages are designed for double-sided arrangements of pictures to maximize picture content for a given album. Therefore it would have been obvious to one of ordinary skill in the art at time of the invention to arrange printed pictures on both sides a photo album page as taught by Official Notice, in order to maximize the number of arranged pictures for a given album." It would appear that the Examiner has taken Official Notice that albums are designed for double-sided arrangement pictures to "maximize picture content for a given album." The Examiner then goes forth to say that it would have been obvious to one of ordinary skill in the art at the time of the invention was made to arrange pictures on both sides of an album as taught by official Notice. In this regard Applicant acknowledges that there are album pages out there having images on both sides. However, Applicant does not agree or consent to any statement that it would be obvious to produce a particular arrangement to maximize the number of pictures for a given album. There are many reasons why people select the number and type of images to be placed on a page. Therefore, if the Examiner is attempting to rely on Official Notice to support the position that something is obvious, Applicant clearly disagrees with the statement. However, as previously noted, Applicant will agree that album pages do exist having images on both sides but the issue in the present application is whether or not the prior art teaches the invention as taught and claimed by Applicant. Claim 16 is a dependent claim and depends at least ultimately on independent claim 10. Applicant respectfully submits that the invention of claim 10 is not taught or suggested by the prior art.

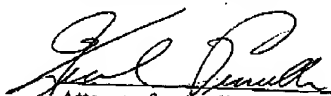
With regard to the specific rejection set forth in paragraph 1 of the Official Action, the Examiner rejected claims 1, 3-6, 8, 10-13 and 15 under 35 USC § 102(b) based upon a public use or sale of the invention. For the reasons previously discussed, Applicant respectfully submits that the PhotoNet reference does not teach or suggest the invention as taught and claimed by Applicant for the reasons discussed above. The Examiner also rejected claims 2, 77 and 78 as being unpatentable over the PhotoNet in view of Florida Times Union as applied

to claim 1 and further in view of Processing Report Paper, Item: UU, for the reasons set forth in paragraph 2. It is respectfully submitted that claims 1, 77 and 78 are patentably distinct for the same reasons previously discussed. The remaining two cited references do not teach or suggest anything additional which would render independent claims 1, 77 and 78 unpatentable for the reasons previously discussed. In particular, the Florida Times and IPR article do not teach or suggest establishment of a criteria with respect to a service provider prior to the service provider being able to provide the goods or service or receive the images and then automatically providing the goods or services upon reaching of the criteria.

With regard to the rejections set forth in paragraph 3 that claims 7 and 9 are obvious under 35 USC § 103(a) over the PhotoNet reference in view of Bloom, Applicant respectfully submits that these dependent claims are patentably distinct for the same reasons previously discussed. Likewise, the rejection of claims 14 and 15 in paragraphs 4 and 5 are also moot in view of the fact that the independent claim upon which they depend is patentably distinct and the additional references referred to do not teach or suggest anything that would render Applicant's claims obvious.

In view of the foregoing it is respectfully submitted that the claims in their present form are in condition for allowance and such action is respectfully requested.

Respectfully submitted,


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If the Examiner is unable to reach the Applicant(s) Attorney at the telephone number provided, the Examiner is requested to communicate with Eastman Kodak Company Patent Operations at (585) 477-4656.